

## REMARKS

Claims 23-44 are pending in the present application. Claims 1-22 were previously cancelled. Claims 43 and 44 have been amended. No new matter has been added. Applicant respectfully requests reconsideration of the claims in view of the following remarks.

Claims 43-44 have been rejected under 35 U.S.C. § 112, second paragraph, as assertedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. More particularly, the Examiner rejected claims 43 and 44 because the claims recite the term “in the future” for which the “present” time is not defined. Applicant, therefore, has amended claims 43 and 44 to recite, “wherein said start-time comprises a time value, the time value greater than a current time.” It is respectfully submitted that claims 43 and 44 are in compliance with 35 U.S.C. § 112, second paragraph. Applicant respectfully requests that the Examiner enter these amendments in order to remove this issue for appeal.

Claims 23-44 have been rejected under 35 U.S.C. § 102(b) as assertedly being anticipated by RFC 2131 – Dynamic Host Configuration Protocol (hereinafter “DHCP”). Claim 23 recites, “the resources are reserved by a resource manager for an application or a group of applications within a time interval defined by a start-time and a stop-time ... [and] guaranteeing said resources between said start-time and said stop-time.” DHCP does not teach or suggest this limitation. The Final Office Action states:

DHCP teaches ... the resources are reserved by a resource manager for an application or a group of applications within a time interval defined by a start-time and a stop time (DHCP, Ch. 1, 2<sup>nd</sup> paragraph, DHCP servers (i.e. resource manager) allocate network addresses and deliver configuration parameters (i.e. resources) to hosts (i.e. application).)

(Final Office Action, page 2.)

In Applicant's Amendment dated August 12, 2008, Applicant previously argued that while DHCP discloses assigning an IP address for a limited period of time, DHCP makes no mention of a start-time and a stop-time. (See Applicant's Amendment dated August 12, 2008, pages 9-10.) The Response to Arguments section of the Final Office Action counters this argument by stating:

Applicant argues that DHCP does not disclose an "individual start-time". The examiner respectfully disagrees. DHCP in Ch. 3.1, 2<sup>nd</sup> paragraph, discloses that the client (i.e. application) suggests values for the network address and lease duration. Therefore individual start-times are disclosed. Further, DHCP in Ch. 1.6, paragraphs 9-10 discloses that the DHCP system guarantees that any specific network address will not be in used by more than one DHCP client at a time. Therefore, any network address delegated by the system is actually an individual network address, which would comprise a corresponding lease duration (i.e. with an "individual" start and stop time).

(Final Office Action, pages 8 and 9.)

Applicant respectfully disagrees with the Examiner's assessment of the prior art. The second paragraph of chapter 3.1 of DHCP recites, "The DHCPDISCOVER message MAY include options that suggest values for the network address and lease duration." Clearly, the prior art does not explicitly teach that the resources are reserved by a resource manager for an application or a group of applications within a time interval defined by a start-time and a stop-time. The Examiner has effectively asserted that such a defined start-time and stop-time is inherent in the disclosure.

The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. See M.P.E.P. § 2112(IV) (citing *In re Rijckaert*, 9 F.3d 1531, 1534, 28 U.S.P.Q.2d 1955, 1957 (Fed.

Cir. 1993)). “In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art.” M.P.E.P. § 2112(IV), citing *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original). Applicant submits that resources reserved by a resource manager within a time interval defined by a start-time and a stop-time does not necessarily flow from a teaching of a duration, as DHCP does not provide any teaching regarding when or how a duration starts. Applicant, therefore, respectfully submits that claim 23 is not anticipated by the prior art of record.

Claims 24-33 and 43 depend from claim 23 and add further limitations. It is respectfully submitted that these dependent claims are allowable by reason of depending from an allowable claim as well as for adding new limitations.

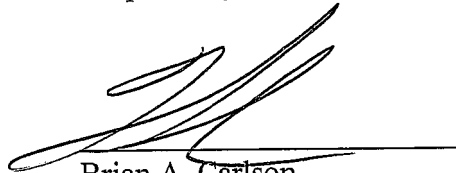
Claim 34 recites, “said resource manager comprises means for reserving resources for an application or a group of applications within a time interval defined by a start-time and a stop-time.” As discussed with respect to claim 23 hereinabove, DHCP does not teach or suggest resources reserved by a resource manager within a time interval defined by a start-time and a stop-time. Therefore, DHCP cannot teach or suggest means for reserving resources for an application or a group of applications within a time interval defined by a start-time and a stop-time. Applicant, therefore respectfully submits that claim 34 is not anticipated by the prior art of record.

Claims 35-42 and 44 depend from claim 34 and add further limitations. It is respectfully submitted that these dependent claims are allowable by reason of depending from an allowable claim as well as for adding new limitations.

In view of the above, Applicant respectfully submits that this response complies with 37 C.F.R. § 1.116. Applicant further submits that the claims are in condition for allowance. No new matter has been added by this amendment. If the Examiner should have any questions, please contact Applicant's Attorney at the number listed below. The Commissioner is hereby authorized to charge any fees that are due, or credit any overpayment, to Deposit Account No. 50-1065.

Respectfully submitted,

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Date

  
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